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Supreme Court, U.S.
FILED
FEB 27 1987
JOSEPH F. SPANIOL, JR.
CLERK

NO. 86-262

In the Supreme Court of the United States

OCTOBER TERM, 1986

U.A. 198 HEALTH & WELFARE, EDUCATION AND PENSION FUNDS
Petitioners

VERSUS

RESTER REFRIGERATION SERVICE, INC.
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITIONER'S SUPPLEMENTAL BRIEF

Jerry L. Gardner, Jr.
Louis L. Robein, Jr.*
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3 pp

Petitioners wish to inform the Court of a very recent case development affecting this pending Petition. On February 23, 1987, the Court granted a writ of certiorari to the Ninth Circuit in *Laborers Health and Welfare Trust Fund v. Advanced Lightweight Concrete Company,* No. 85-2079. The issue presented for review in this Petition is identical to that raised in *Advanced Lightweight, supra:* whether the Employee Retirement Income Security Act of 1974 creates a direct cause of action to collect post-contract expiration employee benefit plan contributions from delinquent signatory employers.

The Court was earlier informed of this identity of issues in the two pending applications at p.6, fn. 4 of this Petition.

It is respectfully suggested that the petitions should be consolidated and that a writ of certiorari be granted in this case.

Respectfully submitted,

Louis L. Robein, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon James H. Gill, Jr., Esq. and Daniel K. Rester, Esq., Camp, Carmouche, Barsh, Gray, Hoffman & Gill, Sixth Floor, 2431 South Acadian Thruway, Baton Rouge, La 70821; opposing counsel of record, by depositing a copy of same in the U.S. Mail, postage prepaid, this 27th day of February, 1987.

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Louis L. Robein, Jr.